

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lori Gyle, et al

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

*Christopher R. Durgon, Esq.
5 Split Rock Drive
Holly Hill, TN 38003 (856) 488-9746*

DEFENDANTS

Nordie Track, Inc., et al

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|---|------------------------------|---|------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> PTF | <input type="checkbox"/> DEF | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> PTF | <input type="checkbox"/> DEF |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify):
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 28 Sec 1331 (a) (1)
 Brief description of cause:
Product Liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

in excess of \$75K

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/30/21

SIGNATURE

ATTORNEY OF RECORD

Chris Durgon

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ROSENBAUM & ASSOCIATES, P.C.

By: CHRISTOHER R. DURSO, ESQUIRE-#013822002
5 Split Rock Drive
Cherry Hill, NJ 08003(8
(856) 489-9746

Attorney for Plaintiffs

LORI COYLE and MICHAEL COYLE, as h/w

7 Penlaw Road
Lawrence Township, NJ 08648

vs.

NORDIC TRACK, INC.

1500 South 1000 West
Logan, UT 84321
and

HEALTH RIDER, INC.

1500 South 1000 West
Logan, UT 84321
and

ICON HEALTH & FITNESS, INC.

1500 South 1000 West
Logan, UT 84321
and

JOHN DOE (1-10) (Fictitious Names)

and

JOHN DOE (11-20) (Fictitious Names)

COMPLAINT AND DEMAND

FOR TRIAL BY JURY

Plaintiffs, Lori Coyle and Michael Coyle, are husband and wife, with their domicile being 7 Penlaw Road, Lawrence Township, New Jersey, 08648 say:

1. The plaintiffs, Lori Coyle and Michael Coyle, are husband and wife and citizens of the State of New Jersey, residing at the above captioned address.
2. The defendant, Nordic Track, Inc., is a corporation regularly conducting business within the State of New Jersey, County of Mercer, and is a Utah Corporation with a principal place of business at 1500 South 1000 West, Logan, UT 84321.

3. The defendant, Health Rider, Inc., is a corporation regularly conducting business within the State of New Jersey, County of Mercer, and is a Utah Corporation with a principal place of business at 1500 South 1000 West, Logan, UT 84321.
4. The defendant, Icon Health & Fitness, Inc., is a corporation regularly conducting business within the State of New Jersey, County of Mercer, and is a Utah Corporation with a principal place of business at 1500 South 1000 West, Logan, UT 84321.
5. The defendants, John Does (1-10), are individuals, corporations and/or other entities whose identities, after reasonable investigation, are currently unknown, but at all times relevant hereto were in the business of the manufacturing, sale and distribution of a certain Nordic Track Treadmill T7.5 S, Item Number NTL19819, involved herein.
6. The jurisdiction of the court is hereby invoked pursuant to United States Code, Title 28, Sec. 1332, which states that the District Court shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.
7. Venue is sought in the U.S. District Court for the District of New Jersey, since all acts that arose from this complaint took place within the U.S. District Court for the District of New Jersey.
8. Venue is sought in the U.S. District Court of the District of New Jersey pursuant to U.S. Code, Federal Statute, Title 28, Sec. 1391(a)(2), which states that a civil action wherein jurisdiction is founded on diversity of citizenship may, except as otherwise provided by law, be brought in the judicial district where a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.
9. At all times relevant hereto the defendants acted through their agents, servants, workmen and employees and the doctrine of Respondeat Superior is invoked herein.

10. At all times relevant hereto, all defendants were acting as the agents, servants, workmen and/or employees of all other named defendants.
11. In March or April of 2019, plaintiffs purchased from defendants a Nordic Track Treadmill T7.5 S, Item Number NTL19819, involved herein.
12. On or about the 26th day of December, 2020, plaintiff Lori Coyle was utilizing the aforementioned treadmill in her home when said treadmill malfunctioned, causing plaintiff to lose her balance and fall, a result of which caused plaintiff to sustain serious and severe injuries more fully set forth herein.
13. The defendants knew or should have known of the existence of the hazardous and dangerous condition of the aforementioned treadmill.
14. As a result of the negligence of said defendants, the plaintiff, Lori Coyle, suffered bodily injuries, including but not limited to her neck, shoulder and knees, which are serious and permanent, required medical attention, caused her to suffer great pain and will cause her to suffer pain and medical expense and require medical attention in the future.
15. The aforesaid accident was caused solely and exclusively by the defendants, their agents, servants, and/or employees, as hereinafter more fully set forth, and was due in no manner whatsoever to any act or failure to act on the part of the plaintiff herein.
16. As a result of said accident, plaintiff, Lori Coyle, has incurred expenses for the treatment of injuries and wage loss.
17. As a further result of said accident plaintiff has suffered wage loss and a permanent and diminished loss in her present and future earning capacity.
18. As a further result of the aforesaid accident, plaintiff has been unable in the past, and is likely to continue to be unable in the future, to attend to plaintiff's usual duties,

activities, vocations and avocations, all to plaintiff's great financial loss and detriment.

COUNT I

PLAINTIFF, LORI COYLE, vs. ALL DEFENDANTS

19. The plaintiff, Lori Coyle, hereby incorporates by reference herein the allegations contained in the preceding paragraphs of this Complaint as though same were fully set forth at length herein.
20. The carelessness and/or negligence of the defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), consisted of the following:
 - a. Failing to maintain said Nordic Track Treadmill T7.5 S, Item Number NTL19819, in a safe and reasonable condition for persons such as the plaintiff using said Nordic Track Treadmill T7.5 S, Item Number NTL19819;
 - b. Failing to reasonably inspect the aforesaid treadmill to ascertain the existence of the negligent condition when defendants knew or should have known of the existence of said negligent condition;
 - c. Failing to warn consumers such as plaintiff of the negligent and/or defective condition;
 - d. Failing to properly and adequately repair said defective condition;
 - e. Failing to respond to requests to repair said defective condition;
21. The negligence, carelessness and recklessness of the defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), consisted of, but is not limited to, the following:
 - a. Failure to adequately warn of the inherent dangerous propensities of the product;
 - b. Failure to adequately provide for protective measures against failure of the product;
 - c. Failure to employ adequate measures in the assembly, design, manufacture, and production of the product;

- d. Failure to protect the product from ceasing to function properly;
- e. Failure to inspect the product so as to prevent the accident or accidental dysfunction from occurring;
- f. Failure to properly design said product in such a manner as would afford adequate protection from injury of the lawful user thereof;
- g. Failure to supply adequate notices or warnings of the dangers of the product;
- h. Failure to design, manufacture and assemble said product in such a manner that it could not easily become defective;
- i. Failure to warn the plaintiff and/or consumers of the risk of the product;
- j. Failure to exercise due care and caution in the design, assembly and manufacture of said product required under the circumstances;
- k. Failure to place or install warning notices in an obvious or conspicuous place on said product;
- l. Failure to place and install adequate warning notices on said product;
- m. Failure to comply with various laws, regulations, and customs of the industry with regard to safety in such products including, but not limited to, the laws of the United States of America and the State of New Jersey;
- n. Failure to assemble the product so as to prevent an accident;
- o. Failure to properly inspect the product prior to placing it in the stream of commerce;
- p. Failure to design a product with adequate materials and safety devices;
- q. Distributing a defective product to the general public and to the plaintiff;
- r. Advertising a defective product to the general public and to the plaintiff;
- s. Failure to inspect said product prior to the purchase of said product by plaintiff and prior to plaintiff taking possession;
- t. Failure to properly train, control and supervise its employees in the design, manufacture, and assembly of said product;
- u. Making false representations to plaintiff and/or the installers of the product, that the product was safe for use, when in fact said product was defective and in a dangerous condition;

- v. Utilizing defective materials in the manufacture of the product; and,
 - w. Failing to recall said product in a timely manner.
22. The negligence and carelessness of the defendants as set forth herein was the proximate and sole cause of the injuries to the plaintiff and the damage and expenses incurred as set forth above.

WHEREFORE, plaintiff, Lori Coyle, demands judgment against the defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS.

COUNT II

PLAINTIFF, LORI COYLE, vs. ALL DEFENDANTS

23. The plaintiff, Lori Coyle, hereby incorporates by reference herein the allegations contained in the preceding paragraphs of this Complaint as though same were fully set forth at length herein.
24. Defendants are strictly liable pursuant to Section 402(a) of the Restatement of Torts 2nd as said product was defective and unreasonably dangerous at the time it was distributed and defendants failed to warn plaintiff and other prospective users of the said defects and dangers.
25. As a result of the said defects and/or other reasonably dangerous propensities of the product, plaintiff was caused to sustain the injuries and damages as set forth herein.
- WHEREFORE*, plaintiff, Lori Coyle, demands judgment against defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS.

COUNT III

PLAINTIFF, LORI COYLE, vs. ALL DEFENDANTS

26. The plaintiff, Lori Coyle, hereby incorporates by reference herein the allegations contained in the preceding paragraphs of this Complaint as though same were fully set forth at length herein.
27. The plaintiff avers that the defendants are liable for the injuries to the plaintiff, and for the resulting damages, in that the product was defectively designed and manufactured and in a defective condition when sold to the plaintiff thereby violating the express warranties.
28. The plaintiff relied upon the skill and judgment of defendants and upon defendants' express warranty that the product was safe.
29. As a result of the defects in material and workmanship, defendants breached their express warranty that the product was in a marketable condition, safe for use by ultimate users and in particular the plaintiff.
30. The injuries and damages as set forth herein were caused by the breach of the express warranty by defendants.

WHEREFORE, plaintiff, Lori Coyle, demands judgment against defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS.

COUNT IV

PLAINTIFF, LORI COYLE, vs. ALL DEFENDANTS

31. The plaintiff, Lori Coyle, hereby incorporates by reference herein the allegations contained in the preceding paragraphs of this Complaint as though same were fully set forth at length herein.
32. Defendants impliedly warranted that the product, when used, was fit for the purpose for which it was designed, that it was a safe and suitable product to be

used by persons such as the plaintiff, that the product was equipped with safety features that would protect the users, and that said product was fit and suitable for that purpose. In reliance upon defendants' skill and judgment and the implied warranties of fitness for that purpose, the plaintiff used and operated the product.

33. The product was, in fact, not fit for use for its intended purpose and defendants breached the implied warranties set forth above.

34. The injuries and damages as set forth herein were caused by the breach of the express warranty by defendants.

WHEREFORE, plaintiff, Lori Coyle, demands judgment against defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS.

COUNT V

PLAINTIFF, MICHAEL COYLE, vs. ALL DEFENDANTS

35. The plaintiff, Michael Coyle, hereby incorporates by reference herein the allegations contained in the preceding paragraphs of this Complaint as though same were fully set forth at length herein.

36. Plaintiff avers that he is the spouse of plaintiff, Lori Coyle.


37. As a result of the aforementioned occurrence, said plaintiff has been and may in the future be required to expend various sums of money for medical services, medicines and/or x-rays in an effort to treat and cure the spouse of the injuries sustained in the occurrence and has incurred or may incur other losses for which plaintiff is entitled to be compensated.

38. Further, by reason of the aforesaid, said plaintiff has been deprived of the

assistance and society of the spouse, all of which has been to the great financial damage and loss of plaintiff.

WHEREFORE, plaintiff, Michael Coyle, demands judgment against defendants, Nordic Track, Inc., Health Rider, Inc., Icon Health and Fitness, Inc. and John Does (1-10), in a sum in excess of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS.

ROSENBAUM & ASSOCIATES, P.C.

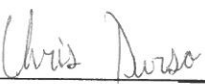
BY: 
CHRISTOPHER R. DURSO, ESQUIRE.
Attorney for Plaintiffs

DATE:

CERTIFICATION PURSUANT TO L. CIV.R 201.1(d)(1)

I hereby certify that the Damages in this case exceed the amount of \$75,000.00, exclusive of interests and costs and any claim for punitive damages.

ROSENBAUM & ASSOCIATES, P.C.

BY: 
CHRISTOPHER R. DURSO, ESQUIRE.
Attorney for Plaintiffs

DATE: